IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Revision No.82 of 2005
Date of Decision 11.11.2010

Balbir Singh

..... Petitioner

VERSUS

State of Punjab and another

..... Respondents

CORAM:- HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr.D.S.Sidhu, Advocate,
for Mr.L.S.Sidhu, Advocate,
for the petitioner.

Mr.Amit Chaudhary, Asstt. Advocate General, Punjab,
for the respondent-State.

*****

A.N.JINDAL, J:

The petitioner-accused (herein referred as 'the petitioner) has preferred this petition against the judgment dated 17.11.2004 passed by the Appellate Court against the judgment dated 13.12.2002, passed by Sub Divisional Judicial Magistrate, Fazilka, convicting and sentencing him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.200/- under Section 323 IPC and rigorous imprisonment for a period of one year and to pay a fine of Rs.1,000/- under Section 324 IPC.

The allegations against the petitioner are that he alongwith other accused, while armed with spade, caused injuries to the complainant Bishan Singh. Consequently, on trial, he was convicted and sentenced accordingly. His appeal also failed.

No argument has been advanced on the question of conviction.

Even otherwise, the prosecution has examined Ram Chand, an eye witness to the occurrence (PW3) and his testimony stands corroborated by Dr.Ajay Kumar Narang, Medical Officer, Civil Hospital, Fazilka (PW2), who disclosed six injuries on the person of the complainant Bishan Singh. No such defect or manifest error apparent on the record has been pointed out in the impugned judgment which may render miscarriage of justice, warranting interference by this Court.

Faced with the situation, learned counsel for the petitioner has prayed for taking lenient view in the matter.

Arguments heard. The occurrence is of the year 1997. The incident took place on the spur of moment in which both the parties suffered injuries. Dr.Rajesh Kumar Sharma (DW2) has deposed about the injuries suffered by Jangiro Bai, wife of the petitioner, from MLR Ex.D2, according to which she had suffered five injuries. The petitioner has also brought on record the compromise Ex.D1, effected between the parties. He has already been acquitted of the charges under Sections 326 & 447 IPC. The injuries are on the non-vital part of the body of the complainant. The petitioner has already undergone about two months of the substantive sentence and is ready to compensate the injured. No bad antecedents have come on record which may reveal that the petitioner was habitual offender. Under these peculiar circumstances of the case, it would be in the fitness of things to extend some leniency on the quantum of sentence.

Under these peculiar circumstances, this petition is dismissed with the modification in the sentence to the extent that he be released on probation under Section 4 (1) of the Probation of Offenders Act, 1958 on his executing a bond in the sum of Rs.10,000/- with one surety in the like amount, to the satisfaction of the Chief Judicial Magistrate, Ferozepur, for a period of one year within which period he shall continue to be of good behaviour and keep peace and in case of breach of conditions of the bond, he will be ready to serve sentence as and when called for. However, the petitioner is directed to pay a sum of Rs.10,000/- as compensation to the injured within three months from today, failing which, he would serve the remaining part of sentence as awarded by the Courts below.

Copy of the order be sent to the Chief Judicial Magistrate, Ferozepur, for compliance.

(A.N.Jindal)
Judge

11.11.2010
mamta-II